

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 02-80626

HOWARD JEROME MCLEMORE,

Defendant.

**OPINION AND ORDER DECLINING TO ISSUE A SENTENCING MODIFICATION
PURSUANT TO 18 U.S.C. § 3582(C)(2)**

The matter is before the court on a determination for a possible reduction of sentence pursuant to 18 U.S.C. § 3582(c)(2). The court appointed the Federal Defender's Office "to determine eligibility, confer with the Probation Department and the U.S. Attorney's Office, and gather the pertinent information to assist the court in expeditiously resolving any pending or intended 18 U.S.C. § 3582(c) motions." (1/26/09 Order at 1.) Thereafter, defense counsel first filed a sentencing memorandum, indicating that Defendant McLemore was eligible for a modification (7/13/09 Sentencing Memorandum), but, two days later, withdrew that assertion (7/15/09 Notice). In the most recent filing, defense counsel correctly states that Defendant is ineligible for a modification due to his career offender status. See *United States v. Perdue*, — F.3d —, 2009 WL 2015242 (6th Cir. July 14, 2009). The court has reviewed the pleadings in this matter and is satisfied that Defendant is ineligible for a modification. Accordingly,

IT IS ORDERED that the court DECLINES to issue a sentencing modification in this case pursuant to 18 U.S.C. § 3582(c), and the matter is deemed closed.

s/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: July 29, 2009

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, July 29, 2009, by electronic and/or ordinary mail.

s/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522